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MEMO ENDORSED


June 11, 2020

VIA ECF

Honorable Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

The application is X granted
_____ denied

Re: Laquan Copes v. City of New York, et al.
17 Civ. 8413 (ER)



Edgardo Ramos, U.S.D.J.
Dated: June 11, 2020
New York, New York

Your Honor:

I am a Senior Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney assigned to represent defendants City of New York, Gina Mestre, Timothy Burke, and Joel Ayala in the above referenced matter. The parties write jointly to respectfully request a thirty-day continuation of the stay of all discovery and answer deadlines, through Monday, July 13, 2020. During this stay period, the parties respectfully request that they be permitted to make efforts to have individually named defendants receive and respond to waivers of service. If all waivers of service have been returned on or before July 9, 2020, the parties further request that all defendants have until Friday, July 31, 2020 to answer or otherwise respond to the Second Amended Complaint. Finally, the parties respectfully request permission to provide a status report to the Court regarding the status of service at a date set by the Court after July 13, 2020.

By way of background, on February 28, 2020, the Court issued a Civil Case Discovery Plan and Scheduling Order (Docket No. 50). Thereafter, the plaintiff filed on consent his Second Amended Complaint (Docket No. 54) naming eleven additional municipal defendants. Presently, six of these additional defendants have been served. These six new defendants are Manuel Estrada, Ryan Lawrence, Lully Lopez, Brian Mahon, Jorge Monge, and Brian Vanduzer. *See* Docket No. 57. The four previously-served defendants—City of New York, Gina Mestre, Timothy Burke, and Joel Ayala—answered the Second Amended Complaint on March 12, 2020. *See* Docket No. 58.

Five of the eleven additional defendants have not yet been served. These five new defendants are Sean Kern, Anthony Terilli, Nivez Hernandez, Amadeo Oktrova, and Charles Cavallaro. On April 30, 2020, Your Honor granted the parties' motion for a forty-five-day stay

of discovery and answer deadlines in this matter but permitting the plaintiff to continue to attempt service on the remaining defendants. *See* Docket No. 61. On May 15, 2020, plaintiff's counsel provided documentation that he mailed waivers of service to these five additional defendants that day. However, only the waivers for Anthony Terilli and Charles Cavallaro were mailed to the proper service addresses for the respective officers. Since that time, the undersigned provided plaintiff's counsel the proper service addresses for Sean Kern, Nivez Hernandez, and Amadeo Oktrova. Plaintiff's counsel provided documentation that he mailed new waivers of service to Sean Kern, Nivez Hernandez, and Amadeo Oktrova at their proper service addresses on June 9, 2020.

As it stands, five of the eleven additional defendants remain unserved. However, despite the present logistical challenges related to service and client conferrals occasioned by the ongoing COVID-19 pandemic and citywide protests, the parties have continued to work together to join these new parties expediently and economically. Presently, Anthony Terilli and Charles Cavallaro have until June 15, 2020 to return their waivers of service to avoid the cost of personal service. Similarly, Sean Kern, Nivez Hernandez, and Amadeo Oktrova have until July 9, 2020 to return their waivers of service.

The parties assure the Court that they remain committed to moving this case forward as expeditiously as possible, and are making best efforts to that end, but ask for continued leniency in these trying circumstances. To facilitate a coordinated approach to these challenges, counsel conferred by email regarding this request and respectfully request a thirty-day continuation of the stay of all discovery and answer deadlines, through Monday, July 13, 2020. During this stay period, the parties respectfully request that they be permitted to make efforts to have individually named defendants receive and respond to waivers of service. If all waivers of service have been returned on or before July 9, 2020, the parties further request that all defendants have until Friday, July 31, 2020 to answer or otherwise respond to the Second Amended Complaint. Finally, the parties respectfully request permission to provide a status report to the Court regarding the status of service at a date set by the Court after July 13, 2020.

The parties thank the Court for its time and attention to this matter.

Respectfully submitted,

/s/ Nelson R. Leese

Nelson R. Leese

Senior Counsel

Special Federal Litigation Division

cc: By ECF
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Attorney for the Plaintiff